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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/342,255	06/29/1999	MAKOTO OGURA	35.C11293DI	6294
5514	7590	09/17/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			SEMBER, THOMAS M	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	

2875

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/342,255

Applicant(s)

OGURA, MAKOTO

Examiner

Thomas M Sember

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 53 and 55-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 53 and 55-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 53 and 55-59 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-46 of U.S. Patent No. 6,015,200. Although the conflicting claims are not identical, they are not patentably distinct from each other because applicant merely uses different terminology to claim the same invention.

Claim 53 of pending application 09/342,255 claims "An image reading apparatus including an illuminating device adapted to illuminate an original and a photoelectric converting device adapted to effect photoelectric conversion on the light from the original, the illuminating device including a light conductive member having a rod-shaped member, the light conductive member comprising: a first face that is a longitudinal face of the rod-shaped member, said first

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face including a light entrance face onto which the light is incident; a second face which is a longitudinal face opposite to said first face, said second face including a first area which is approximately parallel to said first face and a second area which is inclined so that a distance between said first face and said second face becomes shorter along the longitudinal direction, wherein the light entrance face is under the second area of said second face: and a light exit area adapted to emit at least a part of the light to the outside of the rod-shaped member.

In comparison, Claims 1, 3, 10 and 23 of U.S. patent 6,015,200 claims

1. A light conductive member comprising a light entrance face in a part of a lateral face other than an end in the longitudinal direction of a rod-shaped translucent member; an area on a side opposed to said light entrance face, for reflecting and/or diffusing an entering light beam into the longitudinal direction of said rod-shaped translucent member; and an exit face in at least a part of a lateral face, for emitting at least a part of said reflected and/or diffused light beam.

3. A light conductive member according to claim 1, wherein the cross sectional area of said rod-shaped translucent member is made progressively smaller, in comparison with that at said light entrance face, toward the ends along the longitudinal direction.

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10. A light conductive member according to claim 9, wherein said first reflecting and/or diffusing area on the second side has symmetrical angles with respect to said light entrance area.

22. An information processing apparatus comprising:

a) a photoelectric conversion device including a plurality of photoelectric conversion elements provided in opposed relationship to an image to be read;

b) an illuminating device for illuminating said image; said illuminating device including:

a light conductive member including a light entrance face in a part of a lateral face other than an end in the longitudinal direction of a rod-shaped translucent member; an area on a side opposed to said light entrance face, for reflecting and/or diffusing an entering light beam into the longitudinal direction of said translucent member, within said rod-shaped translucent member; and an exit face in at least a part of a lateral face, for emitting at least a part of said reflected and/or diffused light beam; and

a light source provided corresponding to said light entrance face;

c) an output unit for recording an image on a sheet by electrical signals corresponding to image information; and

d) a controller for controlling said photoelectric conversion device, said light source, and said output unit.

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Comparing claims 1-46 of U.S. patent 6,015,200 with claim 53 of pending application 09,342,255:

Claim 53 of pending application 09/342,255 claims "An image reading apparatus including an illuminating device adapted to illuminate an original and a photoelectric converting device adapted to effect photoelectric conversion on the light from the original, **(claim 22 of U.S. patent 6,015,200)** the illuminating device including a light conductive member having a rod-shaped member, the light conductive member comprising: a first face that is a longitudinal face of the rod-shaped member, said first face including a light entrance face onto which the light is incident; a second face which is a longitudinal face opposite to said first face **(claims 1, 8, 13, 22 and 41 of U.S. patent 6,015,200)**, said second face including a first area which is approximately parallel to said first face **(claims 10, 15 and 25 of U.S. patent 6,015,200)** and a second area which is inclined so that a distance between said first face and said second face becomes shorter along the longitudinal direction **(claim 3 of U.S. patent 6,015,200)**, wherein the light entrance face is under the second area of said second face and a light exit area adapted to emit at least a part of the light to the outside of the rod-shaped member **(claims 1, 8, 13, 22 and 41 of U.S. patent 6,015,200)**.

Response to Arguments

3. Applicant's arguments with respect to claims 53 and 55-59 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M Sember whose telephone number is 571-272-2381. The examiner can normally be reached on M-F 8 A.M- 5.30 p.m. first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939. The

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fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas M Sember
Primary Examiner
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